



Maine Forest Service Consultants Newsletter & Ice Storm Update #10 May 2000



DATES AND DEADLINES

June 1, 2000 MFS will start sending cancellation letters out to landowners who have applied for cost-share under the Forest Stewardship Assistance Program but have not had a plan completed as yet. These letters will go out monthly, starting with applications dated January 1, 1998 - April 30, 1998. The next set will go out July 1, 2000, for those applications dated during May and June 1998. If we do not get a response from the landowner to this letter, they will be dropped from the program.

September 15, 2000 All paperwork for SIP practices that are completed and to be paid in federal fiscal year 2000 **must** be at the Maine Forest Service Forester's office by this date. Any paperwork received after this date will automatically be put into federal fiscal year 2001 for payment. A landowner may receive up to \$10,000.00 in SIP payments per federal fiscal year.

September 29, 2000 All County Farm Service Agency Offices will stop taking applications for SIP practices under the ice storm funding. There is no current regular funding for SIP and the county offices have already stopped taking applications under the regular program.

January 1, 2001 The Maine Forest Service will stop taking applications for cost-share for forest management planning under the ice storm funding. The Forest Stewardship Assistance Program will continue funding management plans, but we will be reverting to our regular funding and cost-share rates will reduce to 50%. A full list of allowable costs per acre will be forthcoming.

April 1, 2001 The ice storm program is finished. All plans, practices, and paperwork must be completed by this date. Landowners whose plans are incomplete may reapply for cost-share under the Forest Stewardship Assistance Program at a reduced rate. They will not be automatically transferred to the regular program. Landowners who have incomplete SIP practices will not be reimbursed for their costs.

GOOD WEB SITES TO CHECK OUT

Silvics of North America

http://willow.ncfes.umn.edu/silvics_manual

A US Forest Service website, *Silvics of North America* is divided into two volumes: *Conifers* and *Hardwoods*. Following introductory information, notes, and selected references, *Silvics* provides extensive and easy-to-read information under the categories of description, habitat, life history, special uses, and genetics, along with literature cited.

USFS Tree Information Database

www.fs.fed.us/database/feis/plants/tree/

This US Forest Service site is less of a narrative and more of a database than the *Silvics* web site. It is, however, no less useful. For each species, concise information is supplied under the headings of introductory, distribution and occurrence, value and use, botanical and ecological characteristics, fire ecology, fire effects, and references.

US Wildlife Information Database

www.fs.fed.us/database/feis/animals/index.html

Similar to the Tree Information Database, this US Forest Service web site breaks wildlife into four categories: mammals, birds, reptiles, and amphibians. Under each species with each of the four categories, information is supplied under the headings of introductory, distribution and occurrences, biological data and habitat requirements, fire effects and use, and references.

SIGNING YOUR MAPS

We've had some questions regarding the requirement under Forest Stewardship Assistance that all maps be signed by the consulting forester. This is not our rule, but is part of Maine's forester licensing law, and I quote from Chapter 75: Forester Licensing § 5014 Issuance of license; endorsement of documents: "... Plans, maps and reports issued by the licensee must be endorsed with the licensee's name and licensed number during the life of the licensee's license...". Also, licensing rules state that any maps must clearly disclose that they are "not a legal survey". So please make sure that you comply with this rule, whether you are doing a plan for cost-share under the Forest Stewardship Assistance Program or are producing any other documents for a landowner.

PLAN REVIEWS

In trying to ensure that all plans submitted under the Forest Stewardship Assistance Program are reviewed fairly and uniformly by all Maine Forest Service Service Foresters, we have instituted a system that outlines how plans are to be reviewed and puts deadlines on MFS staff for completing this work. One of the aspects of this protocol is the unfortunate topic of "How to Reject a Plan", something that occurs very rarely, but has happened.

When a MFS Service Forester reviews a plan and determines that it needs revisions, he/she is to contact the consultant directly and ask for the needed changes or information. If the consultant does not respond or the alterations are incomplete, then the consultant will again be contacted. At that time, the landowner will receive a letter from the MFS stating that payment has been delayed and if the landowner has any questions, he should contact his consultant.

If a MFS Service Forester reviews a submitted plan a THIRD TIME and it still does not meet program standards, then the plan will be turned over to the stewardship forester for a further review. If the plan does not pass this peer review, it will be rejected. The landowner has the right to appeal the decision of the review team, by applying in writing to the State Forester.

In simple words: "If you can't get it right in three tries, you're out." Remember, you can always submit a draft of a plan to a MFS Service Forester before formally submitting the plan for payment.

WORKLOADS

It has come to our attention that a number of forest consultants have a seemingly excessive workload of plans piled up in front of them. The most overburdened seems to be the consultant who has 82 plan applications with his/her name attached to them and has completed 5 of them in the last 3 years. Now, you may just have been writing feverishly and decided to take a break and read this newsletter, so you're in the clear, but some of you out there may be obligating yourself into a corner and might want to do a little prioritizing and assessment of your personal workloads and whether you want to take on any more business at this time.

--- Kathy N.

Stumpage: Where the squirrelage sits.

SOME "DO'S" AND "DON'TS" OF CONTRACTS AND CONDUCT

by Bruce Rood

Attorney at Law & Licensed Professional Forester

DO'S

1. Draft agreements to balance risk assumed by the parties. When consideration is in part the mutual promises of the parties, to weight terms in favor of one part or the other can complicate the negotiation process without significant risk reduction or the insertion of the other protection. Unduly weighted terms can affect credibility adversely.

2. Formalize your contract discussions. Show the other party that you pay attention to the terms of your contracts, that the terms are meaningful and enforceable. The other party will recognize that you are not casual or inattentive about the terms of agreement. Formality encourages full performance and satisfaction.

3. Use precise language. If you are unsure whether the meaning of terms is clear, use definitions set forth early in the written agreement.

4. Communicate with the other party frequently during the course of performance. Be clear about the stage of contract performance you believe to have completed. Communication in the language of contract terms and of contract performance will reveal potential areas of dispute early so that such disputes may be averted. Leave as little to implication or inference as possible.

5. Confirm **in writing** all modifications or changes in the terms of your contract arising during the course of performance. And, do so as soon as possible. See: #4 above.

DON'TS

1. Do not commence performance prior to the date specified in the contract or its modifications. And, do not do anything other than that which is specified in the contract.

2. Do not draft any obligation of one party using a negative obligation of the other party. To say **"Landowner shall not be responsible for..."** does not say **who is** responsible. Be on the lookout for such poor drafting.

3. Do not assume the other party will perform in accordance with certain standards if those standards are not specified clearly in the contract.

4. Do not assign or subcontract any duties or obligations, for which you are responsible, to operators you know to have poor work habits or whose history of

performance is known to be shoddy. Poor performance may constitute a breach of contract and will reflect on **your** credibility.

5. Do not ignore mistakes in performance hoping they'll go away. It's not mistakes in and of themselves that are bad for business, but how those mistakes are handled.

FORESTRY AND MUNICIPAL PLANNING

What do trees have to do with land use planning? Plenty. Put street trees, town parks, community forests, and small wooded properties together and you have a major piece of community infrastructure with aesthetic appeal and economic wallop. The Maine Forest Service offers **What Do Trees Have to Do With It?** a one-day workshop on why and how to incorporate forestry into the planning process. The workshop will cover:

- How wooded areas and street trees "work" in backyards, town forests, housing developments and new-style subdivisions.
- How residents, local business owners, developers, realtors, and municipal leaders can take advantage of the economic values and savings offered by street trees and wood areas while practicing effective conservation.
- The relationship between trees and clean water, soil erosion and protection, wildlife habitat protection, recreation and employment opportunities, and the quality of life in your municipality.

A free planners guide **What Do Trees Have to Do With It? Forestry and Land Use Planning** will provide additional planning tools, including:

- ✓ Easy-to-read background on how undeveloped and developed wooded property "works" for the community.
- ✓ Model Comprehensive Land Use Plan.
- ✓ Model ordinances.
- ✓ **Forestry Stewardship Planning Guide** and accompanying software.
- ✓ **The Woods in Your Backyard: A Homeowner's Guide.**
- ✓ **Clip-n-Copy** pages that are easy for municipal clerks and others to copy and make available to private woodland owners. **Clip-n-Copy** topics include: timber harvesting regulations, timber theft, timber contracts, property boundaries, water protection through Best Management Practices, and more.

✓ A bibliography of hands-on planning guides and personal contacts.

Workshop Date: June 21, 2000

Location: Black Bear Inn, Orono

Cost: \$15.00, including lunch. CEU credits offered.

Pre-registration required.

Contact: Kevin Doran or Kris Parrish at Maine Forest Service. 1-800-367-0223.

FORESTRY EVENTS CALENDAR

May 24	Maine Forest Service Arbor Day Celebration, Maine State Museum, Augusta, 3:00-5:00
May 24	Children's Day at Leonard's Mills, Bradley.
June 2	Children's Day at Leonard's Mills, Bradley
June 21	What Do Trees Have to Do With It? Forestry and Land Use Planning workshop, Orono
July 8-9	Living History Days, Leonard's Mills, Bradley.
August 5	Maine Tree Farm Outstanding Tree Farm Field Day, Tide Mill Farms, Edmunds Twp., Maine (way down east)
August 11-13	Forest Heritage Days, Greenville
August 22-23	Maine Farm Days, Barker Farm, Leeds
Sept. 9	SWOAM's Fifth Annual Forestry Fair, Leonard's Mills, Bradley
Sept. 16	Blacksmith's Roundup, Leonard's Mills, Bradley.
Sept. 22-24	Common Ground Fair, Unity
October 1-8	Fryeburg Fair, Fryeburg
October 7-8	Living History Days, Leonard's Mills, Bradley.

STUMPAGE PRICE REQUEST

The requests for the biannual stumpage and mill delivered price reports have been overwhelming so I'm going to try it again. Last time I had only 42 responses with too few prices to compile. This time please complete any information you know of on sales that have taken place from freeze up last December (or January as happened in some areas) until May 1st. A business reply envelope is enclosed for returning the survey. Thanks in advance.

-- Pete

THE LAMMERT REPORT

Winter - What winter? Loggers statewide have just experienced one of if not the shortest winter on record. Many crews did not have solidly frozen ground to log on until after the start of the new year and rain and mud drove them out somewhere in the mid-March to mid-April window, depending on just where you were logging. That's a short winter!

Some mills bought every stick they could while others waited as they thought they had a longer window to buy in. One pine mill I know had two back-to-back million foot weeks for incoming logs but the rainy weather has curtailed weeks like those.

As a result, some mills are low on log inventory. Logs, I swear, are arriving at some mills with Canadian plates on the trucks. Now that's a switch! I expect to see some higher prices paid for logs. Log buyers hate to raise prices locally so they give hefty "mileage bonuses" for logs coming "from away". But for one mill, that might be in the "from away mileage bonus" of another mill, they may have to increase their price to keep local logs from going away.

With all the rains, three days steady in some places, so far this April, mud in the water has become a big problem. With so many people watching who's doing what in the woods now (see Kathy's article on "Dig Safe") mud in the water is a growing problem. If you have any crews that have potential "mud in the water" situations, several bales of hay and two grade stakes to secure each bale go a long way with p.r. Loggers who need pieces of silt fence (it comes with stakes attached in 50' and 100' rolls) should contact any road or water/sewer pipeline contracting firm. At the end of a job they usually have sometimes miles of silt fence to be removed. It's pulled out of the ground, loaded in a truck and dumped in a landfill. If a logger is willing to "pick over" a dumptruck load for pieces he can use, then the price is right. The pulling apart" could also be the next Prentice Loader competition at the 2001 show in Bangor.

The large land transactions have upset the log procurement apple cart above the Penobscot River. Bowater's sale of 1,015,565 acres to J.D. Irving in Aroostook County has been cited as one of the rocks the apple cart bumped over. With more and more mills switching to hardwood and more loggers and logging contractors delivering mixed species loads to brokers/concentration yards, log buyers at some mills are having trouble this spring "adjusting" their inventories.

Advice for this spring: Keep a sharp eye on changing mill specs and prices as they could change weekly.

THE FORESTRY REFERENDUM

There's a lot of speculation going on about the upcoming forestry referendum. Passage of the referendum could affect how land enrolled in the Maine Tree Growth Tax Program is managed, among other issues. For more information on the referendum, go to the following sections of the Maine Forest Service website:

For the referendum text:

www.state.me.us/doc/mfs/reftext.htm

For a fact sheet on the referendum:

www.state.me.us/doc/mfs/refact.htm

For State Forester Tom Doak's testimony to the Legislature's Agriculture, Conservation and Forestry Committee:

www.state.me.us/doc/mfs/testref.htm

If you don't have internet access, contact the Maine Forest Service at (207) 287-2791 for copies of the above material.

"DIG SAFE" LAW AFFECTS FOREST OPERATIONS

On April 14, 2000, Governor King signed into law "An Act Relating to Underground Facility Plants", which can affect some forest harvesting operations.

An "underground facility" means any item...buried or placed below ground for use in...the storage or conveyance of water, sewage, electronic, telephonic...electric energy, oil, gas, or other substances, and including but not limited to, pipes, sewers, conduits...etc. This does not include highway drainage culverts or under drains.

An "excavator" may not begin excavation without first giving notice as required by the law, unless exempted. Commercial timber harvesting is exempted EXCEPT within 100 feet of an easement or land owned by an underground facility operator; or within 100 feet of an underground facility.

Basically, if you're within 100 feet of an underground facility, contact the owner BEFORE you do any road building.